Supreme Court, U.S.
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No. 99-92

In The
Supreme Court of the United States

HOLLINGSWORTH & VOSE COMPANY,
Petitioner,

v.

EVELYN DECUIR RUCKSTUHL and
RICHARD E. RUCKSTUHL,
Respondents.

On Petition For Writ Of Certiorari
To The Supreme Court of Louisiana

BRIEF FOR RESPONDENTS, EVELYN DECUIR RUCKSTUHL and RICHARD E. RUCKSTUHL

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SUMMARY OF ARGUMENT

The Petition for Writ of Certiorari filed by Hollingsworth & Vose Company ("H&V") requests this Court to more clearly define the constitutional test for determining when a State may validly exercise personal jurisdiction over a non-resident manufacturer. Without doubt, the two-prong test of the Due Process Clause has been a prolific source of jurisprudential and doctrinal discussion and debate, resulting in continued uncertainty as to its true application. Indeed, the intensity of the debate has only increased since Asahi Metal Industry Co. v. Superior Court, 480 U.S. 102, 107, S.Ct. 1026, 94 L.Ed. 92 (1987) was rendered. Although respondents agree that guidance from this Court would settle a point of conflict among the United States Courts of Appeal and some state courts of last resort, respondents do not agree that the issue can be adequately resolved by granting writs in *this* case.

The relationship between petitioner and Lorillard Tobacco Company ("Lorillard") was not typical of the arrangement found between most component part manufacturers and their respective end-product manufacturers/buyers. In fact, it is the very uniqueness of petitioner's relationship with Lorillard that would cloud any resolution made by this Court. The lower courts would be left to ponder whether, and if so, to what extent, the *relationship* between a component part manufacturer (here, H&V) and its end-product manufacturer (here, Lorillard) plays a role in establishing "minimum contacts" with the forum state. To circumvent such speculation, the Court would have to affirmatively state that the relationship between the two entities is irrelevant. But such a categorical statement might then foreclose a future opportunity for this Court to review the relationship issue in a case where the issue might play a more pivotal role.

Again, respondents agree with petitioner that the constitutional test for determining when a state court may validly exercise personal jurisdiction over a non-resident manufacturer

should be more clearly defined by this Court. Ideally, however, elucidation should emanate from a case that presents the Court with a clean set of facts. Although the instant case is attractive in that Louisiana's exercise of personal jurisdiction over H&V can be justified under either the "stream of commerce" theory or the "stream of commerce plus" theory, the Court would be forced to grapple with the question of whether, and to what extent, Lorillard's actions can be attributed to H&V in light of their unique contractual relationship. A protracted discussion of the parties' interrelationship would only serve to further complicate an already complex analysis.

ARGUMENT

In upholding the district court's conclusion that Louisiana has personal jurisdiction over H&V, the Louisiana Supreme Court found it "unnecessary to adopt either the stream of commerce theory or the stream of commerce plus theory." Ruckstuhl v. Owens-Corning Fiberglas Corp., 731 So.2d 881, 889 (La. 1999). Instead, the court determined that the jurisdiction question could be decided "without regard to either theory" and then commenced to describe the unique relationship that existed between H&V and Lorillard Tobacco Company. *Ibid.*

According to the court, H&V and Lorillard had a "much closer relationship than that of a general component part manufacturer supplying parts to an end product manufacturer." *Ibid.* Indeed, the court made it clear that H&V and Lorillard were intimately connected. The two companies had entered into an *exclusive* five-year contract that precluded H&V from selling its filter material to any entity other than Lorillard. Their agreement further had the two companies *sharing* profits and liabilities; they *jointly* owned the patent to the filter; they *split* the costs associated with designing and erecting the manufacturing facilities; and Lorillard agreed to *indemnify* H&V for any liability H&V might incur as a result of defects in its filter product. *Ibid.* n. 8. In short, the relationship between

H&V and Lorillard was more akin to a partnership than the typical buy/sell arrangement between manufacturers.

The Louisiana Supreme Court continued by noting that Lorillard extensively advertised the Kent Micronite Filter in both the print and television media. The advertisements targeted consumers nationwide and primarily focused on the relative health attributes of the Micronite filter that was attached to Kent cigarettes. *Id.*, at 889-90. Clearly, the court concluded that the close relationship between H&V and Lorillard makes it a practical impossibility to segregate one entity's action from the other's. Consequently, the court implicitly deemed the marketing and distribution efforts attributed to Lorillard to be equally attributable to H&V. Thus, the court held that H&V had purposely availed itself of the privilege of conducting activities in Louisiana. *Id.*, at 890.

Respondents submit that the facts of the present case do not provide this tribunal with a clean record from which it may embark upon an analysis of what constitutes "minimum contacts." Rather, the relationship between petitioner and Lorillard blurs any distinction between the actions taken by Lorillard and the actions taken by H&V. A clear opinion on minimum contacts can only be rendered when each party's identity and actions are separable from one another, such is not the case in the matter currently before the bar.

CONCLUSION

For the foregoing reasons, the Petition for Writ of Certiorari filed on behalf of Hollingsworth & Vose Company should be denied.

Respectfully Submitted,

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